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Paper No. 10

HARK CHAN  
861 BRENT DRIVE  
CUPERTINO CA 95014

**MAIL**

APR 20 2004

In Re Application of :  
Hark C. Chan :  
Application Serial No. 10/073,124 :  
Filed: February 9, 2002 :  
For: **INFORMATION DISTRIBUTION AND** :  
**PROCESSING SYSTEM** :

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600  
DECISION ON PETITION  
TO EXPUNGE

This is a response to the petition filed December 22, 2003 which is being treated under 37 CFR 1.59(b), to expunge information from the above identified application.

Petitioner requests that "the additional information" unintentionally submitted in the Information Disclosure Statement, filed August 28, 2003, be expunged from the record. MPEP 724.05(II) states in part:

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

- (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
- (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
- (C) the information has not otherwise been made public;
- (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (E) it is established to the satisfaction of the Commissioner that the information to be returned is not material information under 37 CFR 1.56; and
- (F) the petition fee as set forth in 37 CFR 1.17(h) is included.

A request to return information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis. Applicants should note that unidentified information that is a trade secret, proprietary, or subject to a protective order that is submitted in an Information Disclosure Statement may inadvertently be placed in an Office prior art search file by the examiner due to the lack of such identification and may not be retrievable. [emphasis added]

"Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims. [emphasis added]

Petitioner has not complied with parts B and E above and the petition does not clearly identify the information requested to be expunged. Petitioner states "...the Applicant hereby requests that the Additional Information be withdrawn and expunged with respect to the '642 Application, the '257 Application, the '124 Application and the '338 Application, and that the three boxes of materials be returned to the undersigned...". Given that the "three boxes of materials" were not submitted in the instant application, it is unclear what Petitioner wants expunged within the instant application.

Accordingly the petition is **DENIED**.

Petitioner is given **TWO MONTHS** from the date of this decision to complete the requirements as described above. This period is non-extendable under 37 CFR 136(a).

A handwritten signature in black ink, appearing to read 'D. Bost', is written over a horizontal line.

Dwayne D. Bost  
Special Program Examiner  
Technology Center 2600  
Communications